

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1036

Introduced by Assembly Member Koretz

February 22, 2005

~~An act to amend Section 786 of the Penal Code, relating to crime.~~
An act to amend Section 271.5 of the Penal Code, relating to abandonment of newborns.

LEGISLATIVE COUNSEL'S DIGEST

AB 1036, as amended, Koretz. ~~Identity theft.~~ *Child abandonment: newborns.*

Existing law makes it a crime for a parent of a minor child, without lawful excuse, to not furnish necessary clothing, food, shelter, or medical or remedial care for the child, or to refuse, without lawful excuse, to accept the child in his or her home or provide alternate shelter. Existing law also makes it a crime for a parent of a child under the age of 14 to desert the child with intent to abandon, or for any person to knowingly or willfully abandon or, having the ability to refuse to do so, fail to maintain his or her child under the age of 14 years.

Existing law provides that no parent or other person having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of the above crimes if he or she voluntarily surrenders physical custody of the child to an employee on duty at a public or private hospital emergency room, or any additional location designated by the board of supervisors. Existing law provides that within 48 hours of accepting physical custody of a child who is

surrendered pursuant to these provisions, the personnel that have custody of the child must notify child protective services or a county agency providing child welfare services. Existing law requires that agency to immediately notify the State Department of Social Services of each child to whom this provision applies upon taking temporary custody of the child.

This bill would revise those provisions to also provide that no parent or other person having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of those crimes if he or she voluntarily surrenders physical custody of the child to an appropriate person, as defined, in a suitable location, or leaves the child in a suitable location and promptly notifies an appropriate person of the child's location.

~~Existing law provides that the jurisdiction of a criminal action for unauthorized use of personal identifying information includes the county in which the theft of the information occurred and the county in which the information was used for an illegal purpose.~~

~~This bill would expand these provisions to include unauthorized retention and transfer of personal identifying information. This bill would also add the county in which the victim resided at the time the offense was committed to the jurisdictions in which a criminal action may be brought for commission of these crimes.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 271.5 of the Penal Code is amended to
2 read:
3 271.5. (a) No parent or other individual having lawful
4 custody of a minor child 72 hours old or younger may be
5 prosecuted for a violation of Section 270, 270.5, 271, or 271a if
6 he or she voluntarily surrenders physical custody of the child to
7 personnel on duty at a safe-surrender site, *or voluntarily*
8 *surrenders physical custody of the child to an appropriate person*
9 *in a suitable location, or leaves the child in a suitable location*
10 *and promptly notifies an appropriate person of the child's*
11 *location.*

1 (b) For purposes of this section, “safe-surrender site” has the
2 same meaning as defined in paragraph (1) of subdivision (a) of
3 Section 1255.7 of the Health and Safety Code.

4 (c) (1) For purposes of this section, “lawful custody” has the
5 same meaning as defined in subdivision (j) of Section 1255.7 of
6 the Health and Safety Code.

7 (2) For purposes of this section, “personnel” has the same
8 meaning as defined in paragraph (2) of subdivision (a) of Section
9 1255.7 of the Health and Safety Code.

10 (3) *For purposes of this section, “appropriate person” is a*
11 *person who is able to properly care for and keep the child safe*
12 *from physical injury.*

13 ~~SECTION 1. Section 786 of the Penal Code is amended to~~
14 ~~read:~~

15 ~~786. (a) When property taken in one jurisdictional territory~~
16 ~~by burglary, carjacking, robbery, theft, or embezzlement has~~
17 ~~been brought into another, or when property is received in one~~
18 ~~jurisdictional territory with the knowledge that it has been stolen~~
19 ~~or embezzled and the property was stolen or embezzled in~~
20 ~~another jurisdictional territory, the jurisdiction of the offense is in~~
21 ~~any competent court within either jurisdictional territory, or any~~
22 ~~contiguous jurisdictional territory if the arrest is made within the~~
23 ~~contiguous territory, the prosecution secures on the record the~~
24 ~~defendant’s knowing, voluntary, and intelligent waiver of the~~
25 ~~right of vicinage, and the defendant is charged with one or more~~
26 ~~property crimes in the arresting territory.~~

27 ~~(b) (1) The jurisdiction of a criminal action for unauthorized~~
28 ~~use, retention, or transfer of personal identifying information, as~~
29 ~~defined in Section 530.5 of the Penal Code, shall also include the~~
30 ~~county where the theft of the personal identifying information~~
31 ~~occurred, the county in which the victim resided at the time the~~
32 ~~offense was committed, or the county where the information was~~
33 ~~used for an illegal purpose. If multiple offenses of unauthorized~~
34 ~~use of personal identifying information, all involving the same~~
35 ~~defendant or defendants and the same personal identifying~~
36 ~~information belonging to the one person, occur in multiple~~
37 ~~jurisdictions, any one of those jurisdictions is a proper~~
38 ~~jurisdiction for all of the offenses.~~

39 ~~(2) When charges alleging multiple offenses of unauthorized~~
40 ~~use of personal identifying information occurring in multiple~~

1 territorial jurisdictions are filed in one county pursuant to this
2 section, the court shall hold a hearing to consider whether the
3 matter should proceed in the county of filing, or whether one or
4 more counts should be severed. The district attorney filing the
5 complaint shall present evidence to the court that the district
6 attorney in each county where any of the charges could have
7 been filed has agreed that the matter should proceed in the county
8 of filing. In determining whether all counts in the complaint
9 should be joined in one county for prosecution, the court shall
10 consider the location and complexity of the likely evidence,
11 where the majority of the offenses occurred, the rights of the
12 defendant and the people, and the convenience of, or hardship to,
13 the victim and witnesses.
14 (e) This section shall not be interpreted to alter victims' rights
15 under Section 530.6.